IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.2040 OF 1998

Shri Bapu Sadu Jagdale,
since deceased by his L Rs
1. Shri Shankar Bapu Jagdale and Ors ..Petitioners

Vs

1.Shri Dattatraya Ramchandra Jagdale
and ors. ..Respondents.

Ms A.R.baxi, for the petitioners.
Mr D.B.Khaire, for R.Nos 1,3 to 5. (Absent).

CORAM : D.B.BHOSALE,J.

DATE : 30th August, 2005.

PC:

1. Heard learned counsel for the petitioners.

2. This petition is arising from the application Exhibit-5 seeking temporary injunction filed by the respondents-plaintiffs. The said application was allowed by the judgment and order dated 26.2.1998 passed

by the learned 6th Addl.District Judge, Pune in Misc.Civil Appeal No.429 of 1991 restraining the petitioners-defendants from causing obstruction to the joint possession and enjoyment of the land by the plaintiffs till the decision of the suit. The operative part of the order passed by the appellate court reads thus:

> "The appeal is allowed.
>
> By setting aside the order under appeal the defendant is restrained from causing any sort of obstruction to the joint possession of the land, joint enjoyment of the land by the plaintiffs till the decision of the suit.
>
> In view of the nature of the dispute, the lower Court is directed to dispose off the suit as early as possible.
>
> The defendant-respondent shall pay the cost."

2. This Court, while issuing rule on 4.5.1998, passed the following order.

> 1. Heard both sides.
>
> 2. Rule. Interim order in terms of prayer (c).
>
> 3. However, the hearing of Regular Civil Suit No.86 of 1990 pending before the Civil Judge, Junior Division, Saswad, to proceed and the learned Judge is directed to hear and dispose of the same as early as possible."

Ms Baxi, learned counsel for the petitioners, has no instructions as to whether the suit has been disposed of or not. Keeping that in view and considering the order of this Court dated 4.5.1998, in my opinion, there is no point in keeping this writ petition pending any more and the interest of justice would be met by the following order.

(a) The interim order passed by this Court shall remain operative till the dispose of the suit, if not disposed of already.

(b) The trial Court shall decide the suit on merits in accordance with law as expeditiously as possible and in any case within a period of six months from the date of receipt of this order, and uninfluenced by the orders passed in the instant proceedings arising out of Exhibit-5 application.

The Rule is, accordingly, disposed of.

(D.B.BHOSALE, J.)